

Erasmus University Rotterdam Student Arbitration Committee Regulations 2020

*Within the meaning of Section 7.63a and 7.63b of the WHW (Dutch Higher Education and
Research Act)*

These Regulations were adopted by the Board on 15 September 2020.

These Regulations shall come into force on 15 September 2020.

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Chapter I – Definitions

Article 1.1 – Definitions

1. For the purposes of these Regulations, the terms below are defined as follows:

- Administrator The person assigned by the Board to perform the administrative task on behalf of and under the responsibility of the Board (Article 1.1 (1) BBR-EUR-2020);
- Awb The Dutch General Administrative Law Act ([Algemene wet bestuursrecht](#));
- Board Executive Board of EUR within the meaning of [Section 1.1, paragraph 1 under a, Awb](#), the Administrative Body referred to in [Section 1.1, under j, WHW](#);;
- CBE The Board of Appeal for Examinations ([Section 7.60 WHW](#));
- CBHO The Appeals Tribunal for Higher Education ([Section 7.64 WHW](#));
- Chair The person appointed by the Board to chair the GAS and who chairs the GAS during the handling of an Objection;
- Challenge Rejection by a Chair or member of the GAS for processing of an Objection based on grounds that could jeopardise independence or neutrality
- Confidential Counsellor The person appointed as such by the Board (www.eur.nl/vp);
- Decision A Written decision issued by, or on behalf of, the Board, based on the WHW or on regulations based on the WHW, with the exception of decisions for which the Examination Appeals Board is authorised ([Section 7.61 WHW](#)).
The following are also deemed equivalent to a Decision:
 - a. a Written Refusal to issue a Decision and
 - b. a failure to issue a timely Decision;
- EUR Erasmus University Rotterdam;
- EU-GDPR The General Data Protection Regulation ([link](#));
- GAS The Student Arbitration Committee, a permanent Arbitration Committee appointed by the Board pursuant to [Section 7.63a WHW](#);
- Legal Expert Someone with the title Master of Law ([Section 7.20, paragraph 1 under b, WHW](#));
- Objection A Written Objection filed by the Party Concerned against a Decision ([Section 6.4 Awb](#) et seq.);
- Parties The Party Concerned and/or Respondent;
- Party Concerned The person whose interests are directly involved in a Decision. A (prospective or former) student or a(n) (prospective or former) external candidate ([Section 7.59a, paragraph 3, WHW](#));
- Personal Data Any information about an identified or identifiable natural person ([Article 4, paragraph 1, EU-GDPR](#));
- Protocol [Iudicium Abeundi Protocol, NFU](#) (September, 2010);
- Regulations Erasmus University Rotterdam Student Arbitration Committee Regulations;

- Respondent The representative of the Board who made the contested Decision;
 - Secretary The Secretary of the GAS;
 - Supervisory Board EUR Supervisory Board;
 - Withdrawal The decision not to sit on the GAS to process a certain Objection;
 - WHW The Dutch Higher Education and Research Act ([Wet op het hoger onderwijs en wetenschappelijk onderzoek](#)).
 - Written, in Writing By letter or e-mail ([Section 2.13-2.17 Awb](#));
2. Wherever the masculine form is used in these Regulations, it may also be interpreted as the feminine form, and vice versa.
 3. Where the singular is used in these Regulations, the plural can also be used, and vice versa.

Chapter II – General Provisions

Article 2.1 – The Statutory Framework

1. The Objections are handled in accordance with [Section 7.63a and 7.63b WHW](#) and, insofar applicable, in accordance with the provisions of the Awb.
2. The Protocol also applies to proceedings related to Iudicium Abeundi matters under [Section 7.42a WHW](#).

Article 2.2 – The Objection

1. The Party Concerned may file a Written Objection with the GAS against a Decision issued by, or on behalf of, the Board against which there is no appeal pending with the CBE, including but not limited to,
 - Decisions related to enrolment, deregistration and tuition fees;
 - Decisions related to Financial Support for Students ([Section 7.51 WHW](#));
 - Measures such as the denial of access to EUR’s buildings, grounds or facilities or deregistration ([Section 7.57h WHW](#));
 - Termination of, or refusal of, enrolment on the grounds of [Section 7.42a WHW](#): the Iudicium Abeundi. Such Objections shall be handled by members who are specifically appointed to handle Iudicium Abeundi Objections;
 - Decisions related to the issue of degree certificates that meet the procedural conditions for issue according to the Board’s statement ([Section 7.11, paragraph 2, WHW](#));

Article 2.3 - Transfer of Authorisation

1. For the application of these Regulations, the GAS exercises the authorisation of the Board specified below:
 - [Section 7.4 Awb](#) (access to documents);
 - [Section 7.10, paragraphs 3 and 4, Awb](#) (adjournment of the decision term);
 - [Section 7.13, paragraph 2, Awb](#) (notice of handling by GAS);

Article 2.4 – Confidentiality

1. Every Objection shall be treated as confidential. All persons who are directly or indirectly involved in the proceedings must observe strict confidentiality with respect to all the information obtained in this regard.

2. The GAS may instigate further investigation into a breach of confidentiality.
3. After verifying a breach of confidentiality, the GAS may take further measures to protect confidentiality. Those measures may extend to the way in which Parties are heard and the disclosure of (access to) documents and reports. The GAS may advise the Board to take appropriate measures.
4. Confidentiality does not apply to the exchange of information between the Secretary, the GAS or other persons appointed by the Board specifically to handle the Objection and, pursuant to a legal obligation, to authorised officers of police and justice in the framework of a legal process.

Article 2.5 – Data Processing

1. The Personal Data collected and processed by the GAS is necessary for settling the Objection and for advising in the matter of the Objection.
2. The GAS only collects and processes Personal Data necessary for settling the Objection and for advising in the matter of the Objection ([Article 6, paragraph 1, under c, EU-GDPR](#)).
3. The Personal Data shall only be disclosed to other organisations if that disclosure is required by law.
4. The EUR Privacy Policy describes how EUR processes Personal Data.

Article 2.6 – Concurrence Of An Objection And A Complaint (Section 8.14 Awb)

1. If the Party Concerned has filed a complaint as well as the Objection against the conduct of an Administrative Body, the matter, depending on the Party Concerned's purpose, shall be treated as an Objection, as a Complaint or as an Objection and Complaint, unless the Complaint was filed after the time limit for filing Objections has expired ([Section 9.1](#) in conjunction with [Section 9.8 Awb](#)).
2. The GAS, either at the Parties' request or by virtue of its office, may handle cases in joined actions that pertain to the same or a related matter and may separate the handling of a joined action.
3. The Parties may request to join or separate an action until the conclusion of the examination.

Chapter III – The GAS

Article 3.1 – Appointment

1. The Board has appointed a GAS to handle, and advise in the matter of, Objections within the context of [Sections 7.63a](#) and [7.63b WHW](#));
2. The Board appoints the Chairs and the members for a term of four years. The Chairs and members may be reappointed.
3. The Chair and members may not be members of, and may not work under the responsibility of, the Board.
4. The members of the Board, the members of the Supervisory Board, the Administrators and the Confidential Counsellors are not eligible for appointment as Chair or member of the GAS.

Article 3.2 - Composition, Challenge and Withdrawal

1. The GAS has three members, including the Chair and a Legal Expert.
2. The Objection is handled by an GAS whose Chair and members are not, or have not been, involved in any way in the Objection or with the Parties.

3. The Chair or another member of the GAS may Withdraw.
4. Challenge ([Section 8.18 Awb](#)):
 - The Party Concerned may Challenge the Chair, a member of the GAS or the entire GAS until the conclusion of the hearing.
Challenging the GAS.
 - A Challenge Request should be submitted before the conclusion of the hearing at the latest and should then be submitted to the Secretary in Writing, well-substantiated and addressed to the Board, within two working days.
 - The Board shall hear the Party Concerned and the person whose Challenge is requested in each other's presence and shall come to a decision as soon as possible about the Challenge Request. The decision must state the reasons, and the Parties and the person whose Challenge is requested shall be notified without delay.
 - In the event of abuse, the Board may decide that a following request will not be handled.
 - No legal remedy is available against this decision by the Board ([Section 6.3](#) in conjunction with [Section 1.3 Awb](#)).

The term within which a decision on the Objection must be issued shall be extended by the term necessary for a decision on the Challenge Request.
5. In the event of a Challenge and/or Withdrawal, the GAS member concerned shall be replaced by another member or a new GAS shall be appointed.

Article 3.3 – Dismissal

1. After being heard, the Chair or another member may be dismissed from the GAS if the Board feels there are important reasons for his or her dismissal.
2. A Chair and another member may be dismissed from the GAS at any time at his or her own request.
3. Membership of the GAS will be legally terminated if he or she accepts a position that is incompatible with membership of the GAS as referred to in Article 3.1, paragraph 4, of the Regulations.

Article 3.4 – The Secretary

1. The GAS is assisted by a Secretary who, to execute the work, follows the instructions of the Chair.

Article 3.5 – Remuneration for The Chair and Other Members

1. The Chair and members of the GAS receive remuneration according to the Attendance Fee regulations adopted by the Board.

Article 3.6 – Modus Operandi

1. The GAS is exclusively competent to issue advice on Objections filed within the context of [Section 7.63a WHW](#));
2. The Board provides the GAS, on request or otherwise, with all the information the GAS needs to perform the GAS's task satisfactorily ([Section 3.7 Awb](#)).
3. The GAS may consult witnesses and experts, who may or may not be associated with EUR. A report shall be drawn up of these consultations.
4. The GAS's Chair shall lead the examination.

Chapter IV – The Procedure

Article 4.1 – Instructions for The Objection

1. The Objection should be addressed to the Board and submitted to the GAS in Writing and in the Dutch language.
2. If the Objection is written in a language other than Dutch and it needs to be translated if it is to be handled properly, the Party Concerned must arrange its translation ([Section 2.6](#), [Section 4.5, paragraph 2](#), and [Section 6.5, paragraph 3, Awb](#)).
3. The Objection must be signed by the Party Concerned; it must state the name, address, e-mail and telephone number of the Party Concerned; it must state the date it was written and include a description of the Decision against which the Objection is directed, the reasons for the Objection and a copy of the Decision to which the dispute pertains ([Section 6.5 Awb](#)).
4. An Objection may be fully or partially refused pursuant to [Section 2.15 Awb](#).

Article 4.2 – Filing an Objection

1. The term for filing an Objection in Writing is six weeks and begins on that day after the Decision was announced or considered to have been rejected ([Section 6.7](#) and [Section 6.8 Awb](#)).
2. The Objection is filed in due time if it has been received before the term mentioned in paragraph 1 has expired. If the Objection is sent by post, it is considered to have been filed in due to time if it has been posted before the term expired, on condition that it was received no later than one week after the term has expired ([Section 6.9 Awb](#)).
3. If the Objection is filed after the term mentioned in paragraph 2 has expired, the GAS shall not proceed with the dismissal of the Objection due to a failure to file the Objection within the time limit if it cannot be reasonably considered that the Party Concerned was in default ([Section 6.11 Awb](#)).
4. The GAS shall confirm the receipt of the Objection in Writing ([Section 6.14 Awb](#)).

Article 4.3 – Assistance

1. If a Party is represented by virtue of an authorisation, the documents relevant to the case shall be sent to the authorised representative ([Section 6.17 Awb](#)).
2. The authorisation must be granted in Writing; it must state the date on which it was drawn up and it must be signed by the Party Concerned and his or her authorised representative.
3. If a Party is represented by a legal counsel, the Written Authorisation referred to in paragraph 2 will not be required.
4. Any costs for representation are to be borne by the Party who is represented. The Party Concerned may be eligible for legal aid (subsidised legal assistance) from the Legal Aid Board. See www.rvr.org.

Article 4.4 – The Parties' Witnesses and Experts

1. Witnesses and experts may be heard at the Parties' request ([Section 7.8 Awb](#)), on condition the GAS has been notified in Writing of that fact at least ten calendar days prior to the hearing and the notice includes the personal details of the witnesses and experts ([Section 8.60, paragraph 4, Awb](#)).
2. Any costs arising from hearing those witnesses and experts are to be borne by the Party who brought them.

Article 4.5 – Anonymous Witness Statement

1. A Written Statement whereby the identity of the witness is not published and thus not verifiable shall not be taken into consideration by the GAS.

Article 4.6 – Immediate Urgency ([Section 7.63a, paragraph 4, WHW](#)).

1. The Chair of the GAS shall decide, following a request to that effect from the Party Concerned, within one week of receipt of that request, whether the matter is one of immediate urgency and shall notify the Party Concerned and the Board of that decision as soon as possible.
2. In the event of immediate urgency, the Board shall issue a decision on the Objection within four weeks of the GAS's receipt of the Objection. In that event, the terms for hearing the Parties and issuing the GAS's advice to the Board shall be shortened.

Article 4.7 – Amicable Settlement ([Section 7.63a, paragraph 3, WHW](#)).

1. The GAS shall send the Objection to the Respondent requesting the Respondent to consult the Party Concerned as to whether an amicable settlement is possible. A copy of that invitation will be sent to the Party Concerned.
2. The Respondent shall notify the GAS within no more than two weeks of the request referred to in paragraph 1 of the results of the settlement consultations.
3. If an amicable settlement has been reached, the Party Concerned shall withdraw the Objection immediately and in Writing. On receipt of the notice that the Objection has been withdrawn, the GAS shall terminate the handling of the Objection and the Respondent shall be notified of that termination in Writing.
4. If the Party Concerned does not withdraw the Objection in Writing, an amicable settlement will have proved impossible and the GAS shall handle the Objection as soon as possible, with due observance of the provisions of Article 4.16, paragraph 8, of the Regulations.
5. The Respondent should file a statement of response within the term of two weeks set by the GAS and should present all documents that are relevant to the Objection.

Article 4.8 – Remedy of Omission and Adjournment of The Term for The Decision

1. If the requirements presented in Article 4.1 of these Regulations are not met, the GAS will give the Party Concerned the opportunity to remedy the omission within a period of ten working days ([Section 6.6 AWB](#)).
2. The term for the decision shall be suspended as from the day following the day on which the Party Concerned has been requested to remedy the omission until the day on which the omission is remedied or the term set for it expires unused ([Section 7.10, paragraph 2, Awb](#)).
3. If the Party Concerned does not remedy the established omissions within ten working days, the Objection may be declared inadmissible ([Section 6.6 Awb](#)).

Article 4.9 - Admissibility

1. An Objection may be declared inadmissible if:
 - The conditions of Articles 4.1 and/or 4.2 of the Regulations are not fulfilled, despite the request by the GAS to remedy the omission or supplement the Objection.
 - Any requirements set by law for handling Objections are not met.
2. If the Objection is declared inadmissible, the GAS shall advise the Board on the matter in Writing, stating the reasons.
3. The Board shall inform the Parties in Writing, stating the reasons, of the inadmissibility of the Objection.

Article 4.10 – Suspensive Effect

1. The Objection does not suspend the effects of the Decision against which it is directed, unless otherwise decided by, or pursuant to, a legal provision ([Section 6.16 Awb](#)).

Article 4.11 – A New Decision

1. The Objection also automatically affects a Decision to withdraw, change or replace the contested Decision, unless the Parties do not have sufficient interest in such a withdrawal, change or replacement ([Section 6.19 Awb](#)).
2. The Respondent shall notify the GAS of the new Decision as soon as possible.

Article 4.12 – Withdrawal of An Objection

1. The Party Concerned may withdraw an Objection filed with the GAS at any time ([Section 6.21 Awb](#)).
2. The Objection may be withdrawn orally during the hearing.
3. If the Objection is withdrawn, the GAS shall immediately terminate its handling. The GAS shall immediately notify the Respondent in Writing.

Article 4.13 – Review of The Objection

1. If the Objection is admissible, the contested Decision shall be reconsidered on the basis of the Objection ([Section 7.11 Awb](#)).

Article 4.14 – Not Proceeding with The Hearings

1. The GAS may decide not to proceed with the hearings if ([Section 7.3 Awb](#)):
 - The Objection is apparently inadmissible;
 - The Objection is apparently unfounded;
 - The Party Concerned does not wish to exercise his or her right to a hearing;
 - The Party Concerned does not indicate whether he or she wishes to exercise his or her right to a hearing within a reasonable term set by the GAS;
 - The Objection is fully met, and the interests of others are not impaired by that fact.

Article 4.15 – Preparations for The Hearing

1. The response to the Objection shall be lodged by the Administrative Body in Writing.
2. The Parties may submit documents up to ten days before the hearing. The application of that term may be forgone if the Parties agree ([Section 7.4 Awb](#)).

Article 4.16 – The Hearing

1. The GAS determines the date and time of the hearing as soon as possible after receiving the Objection and summons the Party Concerned to it in Writing. The summons shall duly observe a term of five working days prior to the hearing as far as possible.
2. The hearing is held by the GAS or assigned to the Chair or another member of the GAS ([Section 7.13, paragraph 3, Awb](#)).
3. A Party who is heard with a view to possibly imposing a punishing sanction on him or her is not obliged to make any statements about the breach for that purpose. That Party shall be notified that he or she is not obliged to answer prior to the hearing ([Sanction 5.10a Awb](#)).

4. The Parties may be assisted by one person of their choice, in addition to a counsel and an interpreter, if any.
5. The Parties are heard in each other's presence.
By virtue of its office or at the Parties' request, the GAS may hold the hearings separately if it is plausible that a joint hearing could obstruct a meticulous handling or that facts or circumstances could be made known during the hearing that should remain confidential for compelling reasons ([Section 7.6 Awb](#)).
6. The hearing is public. The GAS may, by virtue of its office, or at the request of one of the Parties, or both Parties, decide to hold the hearing (partially) in closed session ([Section 7.5, paragraph 2](#), in conjunction with [Section 7.13, paragraph 4, Awb](#)). The reasons that led to the decision to hold the hearing (partially) in closed session shall be given in the report of the hearing ([Section 8.61, paragraph 5](#), and [Section 8.62 Awb](#)).
7. The decision to hear the Parties separately or the decision to hold the hearing in closed session is not eligible for appeal or Objection ([Section 6.3](#) in conjunction with [Section 1.3 Awb](#)).
8. During the hearing, the GAS shall check whether the option of an amicable settlement has been investigated ([Section 7.63a, paragraph 3, WHW](#)).
9. If it becomes apparent that the examination was not carried out in full before the conclusion of the hearing, the GAS may decide to continue the handling of the Objection at a time to be decided later. The GAS may also give the Parties instructions for the supply of more information or evidence ([Section 7.9 Awb](#)).
10. The Parties may change the content of the Objection and the response as well as the grounds on which they are founded until the conclusion of the hearing, unless the GAS is of the opinion that the Opposing Party is unreasonably disadvantaged due to that change ([Section 7.4](#) in conjunction with [Section 7.9 Awb](#)).
11. The GAS may make an audio recording of the hearing. The audio recording shall remain in the GAS's possession and shall be destroyed either after the term for appeal has expired or the CBHO has issued a decision.
12. A report will be drawn up of the hearings. The report forms part of the GAS's advice to the Board ([Section 7.13, paragraph 6, Awb](#)).

Article 4.17 – Language

1. The hearings are held in Dutch ([Section 2.6 Awb](#)).
2. If the Party Concerned cannot speak Dutch, the Party Concerned may bring someone to the hearing who speaks Dutch.
3. The Party Concerned may be assisted by a professional interpreter at his or her own expense. When a request for legal aid is accepted by the Legal Aid Board, the counsel from the Legal Aid Board may request a sworn and subsidised interpreter. See www.rvr.org.

Article 4.18 – New Facts and Circumstances

1. If, after the hearing, the GAS becomes aware of facts or circumstances that could be of considerable importance for the advice in the matter of the Objection, the Party Concerned shall be notified and the Parties shall be given the opportunity to be heard again about them ([Section 7.9 Awb](#)).

Article 4.19 – The Advice

1. The GAS shall issue the advice about the decision to be made in the matter of the Objection in Writing to the Board within eight weeks of receipt of the Objection, with due observance of the provisions of Articles 3.2, paragraph 4, and 4.8, paragraph 2, of the Regulations.
2. Further extension of the term within which the decision on the Objection is made is possible if the Parties agree in Writing to such an extension or if extension is needed in connection with the observance of legal procedural provisions ([Section 7.10, paragraph 4, Awb](#)).

Chapter V – Results of The Handling

Article 5.1 – Time Limits to the decision on The Objection

1. The decision on the Objection shall be based on sound reasoning that shall be presented with the Written notice of the decision. If a decision was made not to proceed with the hearing, the notice shall include the grounds for that decision ([Section 7.12, paragraph 1, Awb](#)).
2. The Board shall issue a decision within ten weeks of receipt of the Objection, unless the matter demands immediate urgency as referred to in Article 4.6 of the Regulations ([Section 7.63a, paragraph 4, WHW](#)). That term may be suspended (Article 3.2, paragraph 4, and Article 4.8, paragraph 2, of the Regulations). Further extension is possible by virtue of Article 4.19, paragraph 2, of the Regulations.

Article 5.2 – The Review of The Objection

1. If the Objection is admissible, the contested Decision shall be reconsidered on the basis of the Objection ([Section 7.11, paragraph 1, Awb](#)).
2. The Board shall revoke the contested Decision and the Board shall, insofar necessary, issue a new Decision in its place, insofar the reconsideration gives reason to do so ([Section 7.11, paragraph 2, Awb](#)).

Article 5.3 – Notice of The decision on The Objection

1. The Party Concerned shall be notified of the decision on the Objection in Writing ([Section 7.12 Awb](#)).
2. The advice issued by the GAS and the report of the hearing shall be included in the notice to the Party Concerned.
3. If the decision of the Board differs from the advice of the GAS, the reason for that difference shall be provided in the notice ([Section 7.13, paragraph 7, Awb](#)).
4. If the decision of the Board does not differ from the advice of the GAS, the decision shall refer to the content of the advice for the reason for that decision.
5. The decision on the Objection shall be issued as a decision that is eligible for appeal and shall state the competent court (CBHO) and the term for appeal.

Article 5.4 - Notification of the GAS

1. As soon as the Board has made a decision on the Objection, the GAS shall be notified of the results of the handling of the Objection.

Chapter VI – Final Provisions

Article 6.1 – Interpretation

1. In cases relating to these Regulations for which these Regulations make no provision or if these Regulations allow for more than one interpretation, the Awb and the WHW shall be leading and the Chair of the GAS shall issue a decision.
2. The Board may issue a decision that deviates from the provisions of, or pursuant to, these Regulations.

Article 6.2 - Translation

1. If these Regulations are translated and any conflict arises between the translation and the Dutch version, the Dutch version shall prevail.

Article 6.3 – Publication

1. The Board will post these Regulations on the EUR website.

Article 6.4 – Short Title

1. These Regulations are referred to as: 2020 Erasmus University Rotterdam Student Arbitration Committee regulations

Article 6.5 – Non-Applicability of Prior Regulations

1. All prior regulations and decisions on the Objections as referred to in [Section 7.63a WHW](#) shall cease to apply when the 2020 Erasmus University Rotterdam Student Arbitration Committee Regulations come into force.

Article 6.6 – Applicable Law

1. These Regulations are governed solely by Dutch law.

Article 6.7 – Administration of Regulations

1. These Regulations are administered by the General Management Directorate, Legal Affairs Department.